

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

BASSAM MOUSTAPHA ELATAT,

Defendant-Appellant.

UNPUBLISHED

March 15, 2005

No. 251876

Wayne Circuit Court

LC No. 01-012958-01

Before: Murray, P.J., and Markey and O’Connell, JJ.

MEMORANDUM.

Defendant appeals as of right from his convictions of two counts of felonious assault, MCL 750.82, and one count of possession of a firearm during the commission of a felony, MCL 750.227b, entered after a jury trial. We affirm.

In reviewing a sufficiency of the evidence question, we view the evidence in a light most favorable to the prosecution to determine whether a rational trier of fact could conclude that the elements of the offense were proven beyond a reasonable doubt. We do not interfere with the jury’s role of determining the weight of the evidence or the credibility of witnesses. *People v Bulls*, 262 Mich App 618, 623; 687 NW2d 159 (2004); *People v Milstead*, 250 Mich App 391, 404; 648 NW2d 648 (2002). A trier of fact may make reasonable inferences from direct or circumstantial evidence in the record. *People v Vaughn*, 186 Mich App 376, 379-380; 465 NW2d 365 (1990).

The elements of felonious assault are: (1) an assault; (2) with a dangerous weapon; and (3) with the intent to place the victim in reasonable apprehension of an immediate battery. *People v Davis*, 216 Mich App 47, 53; 549 NW2d 1 (1996). An assault is an attempt to commit a battery or an unlawful act that places another person in reasonable apprehension of receiving an immediate battery. *People v Grant*, 211 Mich App 200, 202; 535 NW2d 581 (1995). The elements of felony-firearm are: (1) the possession of a firearm; and (2) during the commission of, or the attempt to commit, a felony. MCL 750.227b.

Complainants testified that defendant pointed a gun at them, and that defendant’s action made them fear for their safety. The mothers of two complainants and police officers testified that defendant acknowledged to them that he pointed a gun at complainants. Defendant and a defense witness maintained that defendant brandished a baseball bat rather than a gun. The jury was entitled to accept the testimony of complainants, complainants’ mothers, and the police

officers that defendant pointed a gun at complainants, and to reject the testimony given by defendant and the defense witness. *Milstead, supra*. Complainants' testimony, as accepted by the jury, established the elements of the charged offenses. *Davis, supra; Grant, supra*; MCL 750.227b. The evidence, viewed in a light most favorable to the prosecution, was sufficient to support defendant's convictions. *Bulls, supra*.

Affirmed.

/s/ Christopher M. Murray

/s/ Jane E. Markey

/s/ Peter D. O'Connell